IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Monday, the Twenty Eighth day of

two thousand and five

PRESENT

The Honourable Sri Justice V.Eswaraiah

WRIT PETITION Nos.1712 of 2003 and 16856 OF 2003

WRIT PETITION No.1712 of 2003

BETWEEN:

1. Manisha Ginning Factory, Rep.by its Proprietor Siraj Ali, S/o Ismail Bhai, aged 38 years, R/o Adilabad.

2. Rahim Oil Industries, Rep.by its Proprietor Mohd.Ali, S/o Ismail Bhai, aged major, R/o Adilabad.

3. Nurin Oil Industries, Rep.by its Managing Partner Iqbal, aged 38 years, R/o Rampur Road, Adilabad.

…Petitioners

And

1. Northern Power Distribution Company, Rep.by Chief General Manager, Corporate Office, Warangal.

2. Divisional Engineer, APNPDCL., Adilabad.

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of writ of mandamus by declaring the action of the respondents in unilaterally converting LT connection of consumer Nos.13328, 12083 and 10808 to HT scheme and issuing the bills from January, 2002 to September, 2002 unilaterally as in violation of principles of natural justice and also wholly illegal, arbitrary and unconstitutional and consequently direct the respondent board to issue the revised bill under LT scheme for the consumer Nos.13328, 12083 and 10808 from January, 2002 to September, 2002 and adjust the excess payment made by the petitioners in the interest of justice.

WRIT PETITION No.16856 of 2003

BETWEEN:

1. M/s.Rajani Oil Industries, Rep.by its Managing Partner Jalaluddin Rajani S/o Jamaluddin Rajani, aged 32 years, R/o Adilabad.
2. M/s.Mamta Oil Industries, Rep.by its Proprietor Naseeruddin Rajani, aged 38 years, R/o Adilabad.

…Petitioners

And

1. Northern Power Distribution Company, A.P. Limited Rep.by its General Manager, Corporate Office, Warangal.
2. Superintending Engineer, Operation Circle, Adilabad.

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of writ of mandamus by declaring the action of the respondents in unilaterally converting LT connection of consumer Nos.10787/90 and 12595/92 to HT scheme and issuing the bills from January, 2002 to September, 2002 unilaterally as in violation of principles of natural justice and also wholly illegal, arbitrary and unconstitutional and consequently direct the respondent board to issue the revised bill under LT scheme for the consumer Nos.10787/90 and 12595/92 from January, 2002 to September, 2002 and adjust the excess payment made by the petitioners in the interest of justice.

For the Petitioners: Mr.Pratap Narayan Sanghi, Advocate.

in both the WPs.

For the Respondents: Mr.M.Sreeramulu Reddy, SC for APTRANSCO

In both the WPs.

The Court made the following:

COMMON ORDER:

Similar questions were raised in these two writ petitions, hence, they are disposed of by a common order after hearing both the counsel appearing on behalf of the respective parties.

The petitioners seek to issue a writ of mandamus declaring the action of the respondents in not treating the two separate category III-A service as per the orders of the Chief General Manager, Commercial/RAC/APNPDCL, Warangal, dated 25-9-2002 and 26-9-2002 with effect from January, 2000, the month in which the respondents have unilaterally converted LT connections into HT connections.

The proceedings of the respondents dated 31-5-2001, clubbing the LT services into single HT services were questioned by way of a representation enclosing the necessary documents in support of their contention that all those units were different and independent establishments owned by different persons and thus invoking of clause 26(7) of Terms and Conditions of Supply was illegal and arbitrary. Therefore, the respondents have issued the said proceedings and treated as two separate category III-A service with immediate effect, but, the period to which they have unilaterally converted the LT connections into HT connections was not rectified and revised bills under the LT scheme in respect of their consumer numbers have not been issued. Therefore, they have been constrained to file these writ petitions.

A similar question fell for consideration in W.P.No.12611 of 2002, which was disposed of directing the authorities to issue revised bills in respect of their limits in the earlier category till treating it as III-A service and the said writ petition was carried in appeal by the respondents in W.A.No.1254 of 2004. The Writ Appeal was disposed of by an order dated 1-9-2004, holding that the representation of the similarly situated person was enquired into, pursuant to which inspection was carried out by the Assistant Divisional Engineer on 28-8-2002 and basing on his report, the Chief General Manager, Commercial issued proceedings dated 26-9-2002 observing that there was no valid reason to club all the services into single HT instead of correcting the mistake from that date. It was also observed in the impugned proceedings that the units be treated as two separate category III-A service with immediate effect. The petitioners

had been agitating the question since then.

The said reasoning equally applies to the facts and circumstances of this case and in the instant case also, the respondents themselves have treated as two separate category III-A service with immediate effect rectifying their mistake.

Accordingly, these two writ petitions are disposed of, directing the respondents to issue revised bills under LT scheme for the respective consumer numbers of the petitioners from January, 2002 to September, 2002 and adjust the excess payment made by them in the future bills. No costs.

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V.ESWARAIAH,J

Date: 28-02-2005.

Shr.

Asst. Registrar.

To

1. The Chief General Manager, Northern Power Distribution Company, Corporate Office, Warangal.

2. The Divisional Engineer, APNPDCL., Adilabad.

3. The Superintending Engineer, Operation Circle, Adilabad.

4. Two CD copies.